

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Aaron Morris Swenson,

Civ. No. 21-456 (PAM/DTS)

Petitioner,

v.

ORDER

Ned G Wohlman,

Respondent.

This matter is before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge David T. Schultz dated May 12, 2021. (Docket No. 22.) The R&R recommends that Petitioner Aaron Morris Swenson’s Petition for habeas-corpus relief be denied without prejudice and no certificate of appealability be granted. On May 19, 2021, the Court received a letter from Swenson claiming a “final judgement” in one of his underlying state criminal proceedings and requesting that the Court convert his petition to one under 28 U.S.C. § 2241 and add a number of new constitutional claims. (Docket No. 24.) Although this document does not mention the R&R, the Court will construe it as an objection to the R&R.

This Court must review de novo any portion of an R&R to which specific objections are made. 28 U.S.C. § 636(b)(1); D. Minn. L.R. 72.2(b). After conducting the required review and for the following reasons, the Court adopts the R&R.

As the R&R noted, at the time Swenson filed the Petition, three state criminal proceedings against Swenson were ongoing. (R&R at 1.) Those proceedings have all been

resolved—one with a conviction, one with a plea of guilty, and the last dismissed in light of the guilty plea. (Docket No. 21.) The R&R also noted that Swenson had not appealed either of his convictions, and it does not appear that he has done so since the R&R’s issuance. (See R&R at 2.)

The R&R correctly determined that, to the extent Swenson attempts to raise a speedy-trial claim with respect to the state criminal proceedings, any such claim has been mooted by his convictions. (Id. at 4.) His remaining claims, whether raised in his Petition or in his other requests to amend his Petition, are premature. (Id. at 5.) Swenson must present those claims to the state courts before he can bring those claims in federal court.

Accordingly, **IT IS HEREBY ORDERED that:**

1. The R&R (Docket No. 22) is **ADOPTED**;
2. The Motion to Dismiss (Docket No. 8) is **GRANTED**;
3. The Petition (Docket No. 1) is **DISMISSED without prejudice**;
4. The Motions to Amend (Docket Nos. 6, 14, 15, and 24) are **DENIED**; and
5. No Certificate of Appealability will issue.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: Wednesday, June 2, 2021

s/Paul A. Magnuson

Paul A. Magnuson
United States District Court Judge